IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

        Plaintiff,

vs.   No. CR 12-0592 RB

REFUGIO REZA,

        Defendant.

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion for Sentence Relief under the Federal Prison Bureau Non-Violent Offenders Relief Act of 2003. (Doc. 75). Defendant asks the Court to direct the Bureau of Prisons to grant Defendant an early release date.

The motion must be denied for two reasons. First, this Court "does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization." *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997). No such statutory authority is presented in Defendant's motion. Second, even if the Court were to set an early release date, the Bureau of Prisons would not be bound by the calculation. The Attorney General, through the Bureau of Prisons , has the responsibility of administering a federal sentence, including computation of credit for pretrial incarceration. *See United States v. Jenkins*, 38 F.3d 1143, 1144 (10th Cir. 1994) ("only the Attorney General through the Bureau of Prisons has the power to grant sentence credit") (citing *United States v. Wilson*, 503 U.S. 329, 333, 337 (1992)).

If Defendant believes "that the execution of his sentence violates federal law or the Constitution," *United States v. Miller*, 594 F.3d 1240, 1242 (10th Cir. 2010), and he exhausts the Bureau of Prisons' administrative remedies, he may seek judicial relief in a petition under 28

U.S.C. § 2241 filed in the district where he is incarcerated, *see Wilson*, 503 U.S. at 335-36;

Bennett v. United States Parole Comm'n, 83 F.3d 324, 328 (10th Cir. 1996). Because the Court

may not modify Defendant's sentence and the requested relief cannot be effectively granted, the

motion will be denied.

THEREFORE,

       IT IS ORDERED that Defendant's Motion for Sentence Relief (Doc. 75) is **DENIED**.

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ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE